voluntary acceptance by the press of higher standards of professional and public obligation.

One might write of many interesting and important features of other parts of the report but time and space forbid. The conclusions to be drawn from the investigation are given in admirable fashion by Dean Pound in the summary. One may not agree with all his conclusions in detail, but in its broad aspect the survey is an admirable presentation of those elements in the problem which are fundamental. The whole undertaking for the improvement of the administration of criminal justice is not one of individuals or personalities so much as it is one of an adequate system; but back of this is the problem of adequate publicity and of securing the primary motive force of good citizenship, which working together will result in the selection of suitable individuals for public office and give to them the stimulation and support which are necessary to make any system work well, however skillfully it may be devised. Our system is bad of course, because it is outgrown, and because being adapted to country communities and the product of one type of social and political philosophy it is now being applied to communities which have gradually become urban and industrial with a changed social and political structure. The system must be changed and adapted to new conditions, and this is a relatively easy undertaking. But no system can be made to work without the support of informed, intelligent, and public-spirited citizenship. How to secure this support is the big problem presented by the survey, to which not only Cleveland but most other cities of this country must address themselves.

Dean Pound's suggestion of a ministry of justice is most helpful, but probably no one would be quicker than he to admit the inadequacy of the ancient device by which one public official is set to watch another. The survey taken as a whole, however, indicates very clearly the need of some permanent body whose business it is to study the functioning of the administration of criminal justice and to place the results of its investigations before the public at frequent intervals. We doubt whether this function can ever be left wholly to public officials. Some civic organization, not unlike the Cleveland Foundation, will ultimately have to be created in each community to undertake this work if real and permanent progress is to be made.

The civic organizations of Cleveland responsible for undertaking and carrying on the present survey and the authors of it may take just pride in their work, and all those interested in the improvement of the administration of criminal justice owe to them a large debt of gratitude and appreciation for bringing it to such a successful conclusion.

HARLAN F. STONE.

INTERNATIONAL LAW: CHIEFLY AS INTERPRETED AND APPLIED BY THE UNITED STATES. By Charles Cheney Hyde. In two volumes. Boston: Little, Brown and Company. 1922. pp. lix, 832; xxvii, 925.

This is a laborious and praiseworthy piece of work. It places at the disposal of any one interested in International Law an indispensable supplement to all earlier treatises. As the title page indicates, the intent is to emphasize the interpretations and applications made by the United States. Yet the practices and contentions of other countries are not disregarded, and the author's presentation of his own country's point of view does not result in twists or in concealments. The author's ambition has clearly been not to demonstrate that his country has always been right, but merely to give to American facts, American documents, and American judicial decisions greater attention than can fairly be expected in a treatise produced by a foreigner.

The footnotes bristle with citations, thousands of them, giving the reader

both confidence in the text and gratitude for the means of making further investigations for himself. The text itself wins confidence, both by thoroughness of citation and by novelty in expression. Even when what is given is merely a doctrine which any one versed in the subject may be expected to know well, the phraseology is the author's own, so that the reader gains often a new point of view and enjoys always the certainty that an independent mind has inspected the ground. It is a pleasure, for example, to read the opening pages wherein the author discusses the definition of International Law, the sources, and the theory of a sanction. Then follows thoroughly modern matter regarding the international state, self-governing dependencies, protectorates, suzerainties, Cuba, Panama, Santo Domingo, Haiti, mandates, and kindred topics, with an easy transition to the discussion of international organizations.

There is a temptation to go through the whole of the work, pointing out at each step that the material is new or that at least the material is handled in an independent way. There is not room for the gratification of that temptation. The reader must and will find for himself that the temptation exists; and then he will have ample opportunity to indulge in the pleasure of reading these volumes from beginning to end. All that can or need be done just now is to point out to the prospective reader some of the topics which are interesting when taken separately, and still more interesting when taken in connection with one another,.

The prominence of American material causes this work to have peculiar value for the small but growing class of scholars and statesmen caring for the relation between International Law and the Constitutional Law of the United States. The Constitution gives to Congress power to define and punish piracies and other offenses against the law of nations; and for this reason and others, as the author explains, International Law is part of the system of law enforced in our courts (§ 5). The Constitution prevents our several states from being states in the sense of International Law; and it is explained that similar lack of international capacity attaches to the Philippines and other dependencies (§ 8). The American Indians also receive comment (§ 10). So do Cuba, Panama, the Dominican Republic, Haiti, and Nicaragua (§§ 19–24). The power of the United States to annex territory, though such power is not expressed in the Constitution, is recognized by the Supreme Court (§ 58). The power of Congress to regulate foreign commerce carries with it the power to determine what aliens shall be excluded or expelled (§§ 59–64). The effect of the annexation of Texas upon the public debt of Texas is discussed from the point of view of both the Constitution and International Law (§ 128). It is shown that as regards international boundaries the views of the political departments of our national government are binding upon our courts (§ 151). The treaty-making power of the United States under the Constitution is said to have been used very slightly as regards the privilege of aliens in the several states to own and transmit property and to engage in occupations (§§ 203–204, 498–499). Some questions on taxation are shown to relate to Constitutional Law and International Law concurrently (§§ 205–206). It is noticed that the constitutional powers regarding commerce and taxation may be so combined as to discriminate against a foreign country (§ 207). The constitutional powers regarding trade-marks and copyrights may be used, as is shown, to encourage friendship with foreign countries (§ 208). It is explained that the national power over commerce includes the power to regulate international cables (§ 211), quarantine (§ 213), and pilotage (§ 214). If there exists by treaty or otherwise a duty to check acts or utterances injurious to a foreign government, there is question to what extent according to International Law the duty is affected by a constitutional guaranty of free speech (§ 217). The author uses both Constitutional Law and International Law in discussing whether a citizen or an alien may be punished in the United States for acts

done abroad (§§ 218, 238–243). When the Constitution speaks of piracies and felonies on the high seas, and offenses against the law of nations, its expressions are to be construed in the light of International Law (§§ 227, 231–232). When an alien is injured by mob violence, the constitutional division of power between the federal and state governments raises embarrassing international problems (§ 290). Citizenship of the United States is dependent upon the Constitution, the statutes, and treaties (§§ 342–393). The Constitution makes the executive department the vehicle of communication with foreign governments (§§ 408–410). The author discusses the limitations, if any, upon the treaty-making power (§§ 494–510), and the participation of President and Senate in ratification (§§ 516–521), and the duties of Congress and the courts after ratification (§§ 523–529). It is explained that under the Constitution a treaty supersedes an earlier statute (§ 526) and *vice versa* (§ 529). The authority of our courts in prize cases is shown to be derived from the Constitution (§§ 891–893).

Surely that list, though not exhaustive, gives adequate proof that these volumes contain much matter of value to persons studying the intimate connection between constitutional and international questions. The topics in that list are not, however, the only ones of special interest to Americans. A searcher for such other American topics finds among many the following: recognition of belligerents (§§ 43–51), the case of The Caroline (§§ 66, 248), the pursuit of Villa (§ 67), the case of The Virginius (§ 68), America and the policy of non-intervention (§§ 76–83), the Monroe Doctrine (§§ 85–97), the right of discovery and occupation (§§ 99–104), Danish West Indies (§ 113), the marine league and bays (§§ 141–148, 185), the Mississippi, the St. Lawrence, the Yukon, and the Rio Grande (§§ 161–165, 184), air-craft (§ 189), the Hay-Pauncefote Treaty (§ 198), the United States and the Chinese Boxer movement (§ 202), American missionaries (§§ 216, 391), asylum on foreign merchant vessels (§ 225), hovering laws and hot pursuit (§§ 235–236), The Schooner Exchange *v.* McFaddon (§ 252), extraterritorial rights in foreign countries (§§ 259–265), claims against the United States (§§ 270–292), claims against foreign governments (§§ 272–289, 293, 300–309), extradition (§§ 310–341), double allegiance and expatriation (§§ 372–392), Koszta's case (§ 396), passports (§§ 399–406), Citizen Genet (§ 424), consular jurisdiction and controversies regarding seamen (§§ 483–484), the Bryan permanent commissions of inquiry (§ 558), treaties of general arbitration (§§ 566–567), the Hague tribunals and the new Permanent Court of International Justice (§§ 568-576), the Tampico incident (§ 591), the limited war with France in 1798 (§ 599), civil war (§§ 600, 604), the Trading with the Enemy Act (§§ 610, 618–619), resident alien enemies (§§ 616–617), drafting resident neutrals (§§ 625–627, 651), the Armistice (§ 647), belligerent occupation (§§ 688–702), anchored mines and war zones (§§ 713–721), searches in port for contraband (§§ 727–730), armed merchantmen (§§ 742–743), submarines and commerce (§§ 747–751), destruction of neutral prizes (§§ 757–758), belligerent domicile (§§ 789–796), contraband (§§ 799–806), continuous voyage (§§ 808–813), the Trent affair (§ 818), blockade (§§ 824–843), neutrality (§§ 844–889), prize courts and procedure (§§ 890–903).

Yet these volumes are not wholly devoted to topics of peculiar interest to Americans. They give much attention to other fields. For example, there are discussions of many points under the Treaty of Versailles; and among these points are mandates and other impairments of independence (§§ 26–28, 114), just treatment of working men (§ 55), regional understandings (§§ 57, 97), self-determination (§§ 108–109), reparation (§§ 114, 125, 133, 298–299), apportionment of public debts (§§ 125, 130), the Covenant of the League of Nations (§§ 491, 585), treaties abrogated (§ 551), cession of merchant ships and waiver of claims (§ 765), the Paris Conference of 1919 (§§ 917–920).

Thus far the topics cited have special interest because they deal with the United States or with the World War. Much of the discussion deals with subjects of more general and permanent interest; for example, the distinction between justiciable and non-justiciable disputes (§§ 560–561), the effect of war upon contracts and remedies (§§ 606–614), the international rights and liabilities of corporations and of their stockholders or bondholders (§§ 278–280, 794–796) — the last topic being of importance to all lawyers, as it bears intimately upon the vexed problem of corporate entity.

The footnotes, as has already been said, teem with citations of books and articles and documents; and the lawyer will be pleased to find that they cite about fourteen hundred judicial decisions. Mention of the thoroughness of the footnotes must not, however, be construed as a disparagement of the text; for the text, as has been shown, is crowded with important matter. In short, both the text and the notes entitle these volumes to be placed among those most useful to the practitioner and to the specialist — alongside Dana's Wheaton and Moore's Digest.

Now that this treatise covering substantially the whole of International Law has been successfully based upon emphasizing chiefly the practices and contentions of the United States, it is worth while to point out that many persons would have called this feat impossible. Is not the United States geographically isolated? Do not the teachings of Washington and Jefferson insist upon avoiding European entanglements? Are we not a peaceful people? Do not our years of peace vastly outnumber our years of war? The answer to each of those questions is Yes. Yet even in war we have had abundant experience. We have used armed forces against the Barbary States, France, England, Mexico, and Spain, besides our much more serious experiences with the Civil War and the World War. Thus it happens that the rights and duties of belligerents have been brought home to us more than once. At other times we have been neutrals; and as that has been our habitual attitude, we have seemed to the world to be the principal contestants in favor of neutral rights. Further, we were early in our definition of neutral duties.

A generalization approximately correct, but with substantial exceptions, is that the international history of the United States is full of attempts to make war less frequent, more humane to belligerents, and less burdensome to neutrals. In 1787, 1795, 1796, and 1797 the treaties with the four Barbary States gave early examples of a plan to postpone war until after investigation of facts. In 1793 and 1794 the attempt to define the duties of neutrals laid a foundation for the elaborate system which today tends to prevent neutral countries from becoming embroiled in war through misconduct of their citizens or governments. In 1817 the agreement with England regarding armament on the Great Lakes laid the foundation for all disarmament movements. In 1823 the Monroe Doctrine made the attempt, with miraculous success, to preserve the Western Hemisphere from European aggression. In 1863 the Instructions for the Government of the Armies of the United States in the Field — known as General Order No. 100 — originated or codified systematic and humane rules which eventually took the shape of Hague Conventions. It is possible to frame a list of at least twenty contributions of the United States toward International Law or international practice. Yet those contributions would have been unsuccessful without the coöperation of other nations; and the reason for calling attention to a few of the possible list of twenty is simply to give concrete instances to prove that the United States has really not been a hermit nation, and that hence its history and practices and contentions, like those of many another country, no doubt, might reasonably have been expected to give basis for a comprehensive treatise. Such was the view of the author of these volumes; and his success proves that he was right.

EUGENE WAMBAUGH.